

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )  
                               )  
Plaintiff,                 )                           8:09CR142  
                               )  
v.                            )  
                               )  
DAVID W. KOFOED,            )                           ORDER  
                               )  
Defendant.                 )  
\_\_\_\_\_)

This matter is before the Court on the report and recommendation of the magistrate judge (Filing No. [27](#)), recommending that defendant's motion to declare Title 18, United States Code, Sections 1341 and 1346 unconstitutional (Filing No. [15](#)) should be denied. The defendant has filed an objection to the report and recommendation (Filing No. [36](#)).

The Court has conducted a *de novo* review of the defendant's motion, the brief in support of his motion (Filing No. [17](#)), the response of the government to defendant's initial brief (Filing No. [23](#)), and plaintiff's response to the objections of the magistrate judge's report (Filing No. [41](#)). The Court finds the report and recommendation of the magistrate judge should be approved and adopted. Accordingly,

IT IS ORDERED:

- 1) The report and recommendation of the magistrate judge is approved and adopted;

- 2) Defendant's objections to the report and recommendation of the magistrate judge are overruled;
- 3) Defendant's motion to declare Title 18 United States Code, Sections 1341 and 1346 unconstitutional is denied.

DATED this 20th day of August, 2009.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court